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ABSTRACT

This paper outlines educators' responsibilities when a student speaks of suicide. It focuses on suicide in Illinois and reports on a survey that asked principals about suicide behavior in their schools. The results were divided into three categories: districts with fewer than 1,000 students, districts with 1,000 to 2,500 students, and districts with enrollment over 2,500. The report examines suicide attempts, demographics, and risk factors. It describes the training of staff as well as schools' policies and practices to deal with student suicide, detailing lawsuits over a 5-year period. The survey results show that more than 90 percent of small districts have not experienced student suicide. Although schools with 500 or fewer students accounted for 18 percent of the total self-inflicted deaths among Illinois young people, evidence suggests that smaller schools have not yet recognized and/or addressed the growing problem of suicide among the young. The paper analyzes the applicability of case law on student suicide, discussing some of the principles that have arisen in litigation, including state courts' tendency to provide broad-based legal protection for schools. Overall, the law does not require educators without specific training and experience to discover or diagnose psychiatric, psychological, or emotional conditions that may lead to a student harming him- or herself. (RJM)

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# Student Suicide And Educator Duty: A Law and Policy Survey

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## Introduction

The Columbine High School massacre seared into the collective American consciousness the realization that today's youth are more inclined than ever before to turn to deadly violence to resolve their personal disputes with others. Apparently lost in the collective rage against the teenage murderers is that, by killing themselves, Eric Harris and Dylan Klebold reaffirmed a second tragic phenomenon among our young. That being the perception that suicide is also a way to make one's personal troubles disappear. The senseless futility of the Columbine murders/suicides gnaws at our individual and collective fiber. Yet, just as tragically, young urban and rural boys and girls are choosing this permanent solution to life's transitory problems in far less complex and far lonelier circumstances. Most cases of youth suicide resemble the death of Erin Lyn Melvin .

On October 28, 1996 in Galva, Illinois, an agricultural community of 2700 in the western part of the state, High School Principal Steve Johnson was informed that Erin was threatening suicide. More specifically, as alleged in the lawsuit filed by Erin's parents (1), he was made aware of a note in which the girl stated her intent to kill herself. Being familiar with Erin and believing that there was no way she would carry through with the threat, the principal responded by writing a note to Counselor Larry Varner, who was away from the building at a meeting, directing him to see Erin first thing the next morning. He did not summon Erin from class to his office. He did not try to contact her parents or anyone else at the time.(2) Upon arriving at school the following morning Mr. Johnson learned from the school social worker that thirteen year old Erin had hanged herself in the closet of her bedroom at her home the previous evening.(3)

## Overview of the Student Suicide Phenomenon

### Statistics

According to 1991 World Health Organization data, youth suicide in the past 35 years has increased at a greater rate than for any other group: 300% for males and 230% for females.Moreover, a 1990 study reported that there are more than 500,000 attempts each year. With approximately one in every 100,or 5000, attempts completed annually.(4)

In 1998 the Centers for Disease Control and Prevention's(CDC) Youth Risk Behavior Survey revealed that suicide is the fourth leading cause of death among people ages 5 to 24 in America. Accounting for approximately 12% of all deaths among the young. In its report, the CDC presented the latest
results of its survey of nearly 11000 high school students. The findings show that:

- approximately 24%(2617) of young people had thought seriously about suicide.
- females (30%) were nearly twice as likely as males(18%) to contemplate ending their lives.
- approximately 18%(1963) of those who had contemplated suicide had progressed in their thoughts to the point of crafting a plan to carry out the act.
- during the 12 months prior to the survey 9%(981) had attempted to kill themselves.
- approximately 3%(327) had perpetrated attempts which caused injury, poisoning, or overdose serious enough to require medical attention.

## Illinois Survey

During the summer of 1998 the Illinois Principals Association (IPA) and the Illinois Institute for Rural Affairs (IIRA) at Western Illinois University jointly sponsored a survey of the state's public school principals in an effort to gather base line data regarding the incidence of suicidal behavior among Illinois public school students along with information concerning various legal and policy implications.

Survey s were mailed to the 1847 members of the Illinois Principals Association. The mailing generated 462 (25%) responses. In an initial question respondents were asked to state the total enrollment of their districts. From the responses three analytical categories were created. They are: Small Districts comprised of fewer than 1000 students.( A subcategory of the small district group, labeled Rural Districts, are those with 500 or fewer students in attendance.) Mid-size districts range between 1000 and 2500 students. While Large Districts comprise those with more than 2500 enrollment.A breakdown of the district categories shows that Small Districts made up 60% of the respondents. Of those 32% fit into the subcategory of Rural Districts. Mid-size Districts were 30%. Large Districts accounted for 10% of the responses.

## Overview

As stated above, the survey generated a 25% ( 462 of 1847) return rate from the membership of the Illinois Principals Association . The respondents were overwhelmingly (94%) building principals. In the past five years more than 80% of the districts had been fortunate enough not to have a student suicide. Of the districts reporting student suicides, approximately 11% had experienced a single event. While the remaining 9% were forced to cope with multiple deaths. Suicide attempts appear to be more widely spread with 56% of the respondents reporting such incidents. Of this group 42% reported multiple attempts.

## Suicides

The total number of reported suicides numbered, at least, 133 during the five year reporting period. Of that number 38(29%) occurred in Small Districts. A minimum of 52(39%) happened in Mid-Size Districts. While Large Districts reported 43(32%). Approximately 80 districts reported student suicides. Of that group 26(33%) are in the Small District category. That figure in itself is not disproportionate. However, when the enrollment differentials among the three district categories are considered, the figure is noteworthy. Further analysis shows that the 26 Small Districts reporting student suicides amount to 9% of the Small District respondents and 6% of the total. In terms of suicide rates, Small Districts report a minimum of 38 self inflicted deaths.That number equates to 29% of the total of 133. Thus, according to these data, 6% of the school districts in Illinois have experienced 29% of the student suicides over the past five years. And, surprisingly, these are the smallest districts. To be sure, more than 90% of the Small Districts report no students having died by their own hand. However, when young lives are the focus further inquiry is called for.

Breaking down the Small District category into the Rural District subcategory the data are still more unsettling. The 148 reporting districts with less than 500 students equals 32% of the total respondents. Of that group 15 reported student suicides totaling, at least, 24 student deaths in the past five years. This group of the smallest schools which report suicides represents 3% of the total number of schools participating in the survey. Yet the number of deaths reported equates to 18% of the total . A disproportionate representation, to say the least.

**Suicide Attempts**

To reiterate, a majority of Illinois school districts have experienced suicide attempts on the part of their students. A conservative estimate is that at least 236 districts(56%) reported more than 900 attempted student suicides in the five years preceding the study. A categorical breakdown finds 28 Large Districts reporting more than 200 attempts, 72 Mid-Size Districts reporting 300 and 136 Small Districts reporting almost 400 incidents.In the Rural District subcategory approximately 54% of the respondents said that none of their students had attempted suicide. However, 66 districts documented at least 165 incidents.

Applying the same analysis as above regarding small schools, these data conservatively show that the 32% of schools in Illinois defined as small account for 40% of all the attempted student suicides in the five years preceding this study. Moreover, the 16% of schools in the smallest category experienced 18% of the attempts.

**Demographics**

The demographics of the suicide phenomenon among Illinois students reveal some very clear trends. First the age range is very wide among the survey respondents encompassing literally all ages of students.However, as reported in the Centers for Disease Control data, females are clearly more apt to attempt to kill themselves. In the present study, including multiple attempts by the same student, 278(126%) reported incidents involved girls. While 160(73%) involved boys. The most frequent age is 16. While the median age is 14.5.

**Risk Factors**

Risk factors for suicide attempts are revealing. In all three categories of schools depression is present in more than 90% cases. New or increased use of drugs or alcohol is the second or third ranked factor across the categories. In the lower grades clinically diagnosed psychological problems and the loss of parents due to death also figure prominently. Whereas at the high school level romantic disappointment and the loss of a friend by suicide replace psychological problems and parental loss as the most significant determinants of risk for self inflicted harm. A composite of the demographic information and the stated risk factors shows that a depressed, 16 year old girl

with a history of substance abuse and/or disappointment in romance is at the highest risk to injure or kill herself. The risk factors and demographics were quite consistent across the district categories. Any differences did not appear to be significant.

## Involvement and Training of Personnel

### Staff Involvement with Student Suicide and Attempts

The survey asked what staff had been involved with student suicides and/or attempts at suicide. Overall, the responses showed that counselors had a the greatest level of involvement at 77%. Followed by teachers at 72%, principals at 63% and social workers at 52%.
Principals become the most involved when there is a threatened suicide. In these incidences the principal is involved 86% of the time. Teachers again showed the second highest rate of involvement at 80%. Counselor and social worker involvement with threatened suicide occurs in roughly 70% of the reported cases. However, these overall patterns differ somewhat in small district settings.

In small districts principals maintained the highest level of school personnel involvement in attempted or threatened suicide with a 90% rate. Teachers, however, are the most involved in incidents of actual student suicide with an 86% response to the survey question . Teachers also are involved in approximately 80% of the threatened/attempted suicides by students in small districts.Even though the survey did not investigate the differences in the level of participation among staff. It is a fair conclusion that the lack of specialized staff, such as counselors and social workers, in rural areas leads to the greater involvement by faculty and building administrators.

### Training of Staff

A second question in this vein sought information about who received training. Among all respondents 72% of counselors had training. Followed by social workers at 64% , school psychologist at 45%, principals with 40% and teachers with 31%. This quite stark difference between the level of actual staff involvement and training carried through small,mid-size and large districts.

## Policy and Practice To Deal With Student Suicide

Clearly, student suicide stands as a major social problem in America and one that directly impacts schools on a daily basis. Have Illinois school districts responded with policy direction? The survey asked about established methods of dealing with both actual and threatened suicides. Overall, just 28% of the respondents reported operating pursuant to a formal policy. Whereas, approximately 57% said they were directed in their response by informal policy or past practice. A total of 13% reported no policy guidance at all.

A categorical breakdown revealed that the larger the district, the greater the chances of formal policy direction. Well over 50% of the large districts reported formal policies. The mid-size and small districts followed with 41% and 34% respectively. The rural group trailed with just 27% of the respondents saying that their districts had taken the time to promulgate a formal policy. As one would expect, the converse is true when it comes to the lack of formal guidance with 28% the smallest districts operating on an *ad hoc* basis.

## Lawsuits

As stated above, the survey covered a reporting period of 5 years. In that span of time the 462 respondents reported a minimum of 133 deaths and at least 900 documented suicide attempts by students. A total of 7 lawsuits against schools resulted. Only 1 suit had been filed against a district classified as small. None occurred in the rural subcategory. Apparently, the common belief about a society obsessed with suing does not operate in these circumstances. Still, in the few instances where civil actions followed a student death or self-inflicted injury, the result was unfavorable to defendant district on 5 occasions.

The survey sought to determine what might be driving forces in parent decisions to sue by asking what type of criticism districts had received in the wake of a student death. The responses showed that in all 7 cases the school districts were criticized for failing to refer troubled students for counseling prior to the death. The second most stated criticism was the lack of parental notice of their child's suicidal ideations while at school . Finally, criticism of failure to notify parents of changes in attitudes and moods was heard.

## Analysis of Legal Principles

### Case Law

Case authority in this area of law is inconsistent. However, several principles have evolved which can provide guidance for educators. The first recorded appellate court decision in a lawsuit involving a student suicide is that of the Wisconsin Supreme Court in the case of ***Bogust v. Iverson*** 10 Wis2d 129, 102 NW2d 228 (1960). This case ensued in the wake of the suicide of a college student following the termination of a professional relationship by her school counselor and his failure to either refer the student for psychiatric evaluation or notify her parents of her emotional problems. The court found for the counselor and refused to impose a legal duty upon such persons to recognize in a student a condition which involves a medical diagnosis. In addition, the justices declared that, even if the counselor was negligent in his failure to refer or notify parents, the student's act of killing herself was the legal cause of her death thus relieving the counselor of legal responsibility.

The New York Supreme Court Appellate Division ruled similarly when the sister of a high school student who shot himself while sitting in the vice principal's office awaiting discipline sued seeking compensation for her mental and emotional distress. In the face of the sister's allegation that school personnel "permitted" the boy to kill himself by leaving him alone while in possession of a loaded gun, the court refused to recognize a cause of action saying that an uninvolved party could not recover for unintended harm sustained as a result of injuries inflicted directly upon another, ***Shaner v. Greece Central School District*** 51 AD2d 662, 378 NYS2d 185 (NY App 1976).

The first judicial recognition of plaintiff's rights in such circumstances came in a federal civil rights lawsuit in Oregon. There a student confronted a teacher with a handgun in class. The teacher convinced the boy to accompany him to an empty room to speak to the vice principal. While this was occurring other personnel telephoned the police. In the room the boy kept the gun in his waistband and produced a suicide note. The vice principal asked the boy to accompany him to the principal's office. While on the way a police officer appeared in the hallway and told the boy that: "He was in trouble with the law." Minutes later the boy was allowed to go to the bathroom where

he shot himself. The parents sued in federal court claiming that school officials violated their right to care, custody, and companionship of their son in violation of the 14th Amendment to the US Constitution. The US Circuit Court of Appeals for the 9th Circuit ruled that parents do possess such rights under the due process clause of the 14th Amendment and that they may recover damages if it is proven that the public school authorities, while acting according to some policy, regulation or practice, deprived the plaintiffs of that right without due process of law, ***Kelson v. City of Springfield*** 767 F2d 651 (9th Cir 1985).

Two cases, one a state case and the other a federal court decision applying state law, imposed greater responsibilities upon educators where specific applicable statutes have been promulgated. In 1991 the Supreme Court of Maryland, in ***Eisel v. Board of Education of Montgomery County*** 324 Md 376, 597 A2d 447 (1991), advanced the rights of recovery for plaintiffs and limited the protection afforded school defendants by the *Bogust* decision . The facts of *Eisel* involved a thirteen year old girl who became obsessed with satanism and self destruction. During the week prior to her death in a murder-suicide pact with another teenager, the girl revealed her plans to friends. They, in turn, told the school counselor. He called the girl into his office and confronted her with the information. She denied any suicidal ideations. The counselor did not report any of these events to the girl's parents. Significant in this case was the existence of a state Youth Suicide Prevention law and regulations. In conjunction with the state mandates the local school board had promulgated a "suicide prevention" policy. In upholding the parents' claims, the Maryland Supreme Court recognized the growth of the social problem of youth suicide and declared reasonable the imposition of a legal duty upon counselors to take steps to prevent student suicide where the professional has actual notice of such intent. The court traced the legal basis for the duty to a combination of the principle of *in loco parentis* and the therapeutic nature of the student -counselor relationship. Moreover, the court stated that matters of confidentiality did not outweigh the need to prevent the death of a child in such circumstances. Finally, the *Bogust* precedent was not followed due to a lack of actual knowledge of the suicidal intentions of the student in the earlier case.

The second case was brought in a federal court in Florida after a thirteen year old committed suicide at home. He had made two attempts at school in the days just prior to his death. The first attempt occurred in the restroom when the boy was discovered by another student trying to hang himself with his football jersey. The friend told his own mother who called the Dean of Students.(The mother testified that she did not know the Wyke boy's mother well enough to

contact her directly.) The Dean said that "he would take care of it." Whereupon he called the boy into his office, talked to him, read him some Bible verses and sent him on his way. The Dean did not report any of these events to anyone because he believed it was "too much red tape " and he believed he had the situation "under control". The boy's second attempt followed the meeting with the Dean, also in the restroom. A custodian reported having a conversation with a boy she could not positively identify in the cafeteria.She said they were talking about the boy's problems with his grandmother. He went to the bathroom and was gone longer than normal. When he emerged he said to the custodian that had he stayed any longer he would have killed himself. She went in and found a coat hanger and a cord hanging from the ceiling. The custodian reported the events to the Vice Principal who, allegedly, asked her if she could not find something else to do.
The federal court was asked to interpret and apply the Florida School Health Services Act to the facts of the case. It found that the mandate to schools to carry out school based health services to "appraise, protect, and promote the health of students", together with the requirement of district "health service" plans which provide for "consulting with students' parents/guardians regarding the need for health attention", required affirmative action on the part of school personnel.
Additionally, regulations obliged educators to immediately notify parents or responsible adults designated by the parents in the event of accident or serious illness. Thus , pursuant to the duty to adequately supervise students, school officials can be held liable for foreseeable injuries for failure to notify parents when a child is in such an acute emotional state that he, is not just talking about suicide, but attempting it, ***Wyke v. Polk County School District*** 129 F3d 560 (11th Cir 1997)

Despite the recognition by the federal courts of constitutionally protected parental rights and the application of specific state statutes, state courts have not hesitated to provide broad based legal protection for schools. In Michigan an intermediate appellate court applied state tort immunity laws to afford complete protection from liability for elected officials and the highest appointive executive officials in that state's school districts. In the case of ***Nalepa v. Plymouth-Canton Community School District et al*** 207 Mich App 580, 525 NW2d 897(Mich App 1994), a second grade student hanged himself from the safety rail of his bunk bed the night following a showing in his classroom of a movie entitled *Nobody's Useless* . The film depicted the struggles of a young handicapped boy to overcome his disability. During the movie the disabled boy attempts suicide twice, once by hanging, before an older boy teaches him how to deal with life. In addition to immunizing the school board and the chief executive officer, the Michigan Court of Appeals declared that Michigan did not recognize the legal theory of educational malpractice.

Thereby releasing the dead boy's teacher.

In Texas an intermediate court of appeals applied the state tort immunity law to absolve a district and various professionals from responsibility for the suicide of a girl at her home following her summary suspension for drug dealing. The parents sought damages for "negligent discipline". The court declared that the Texas Education Code provides that no professional employee of a school district is personally liable for any act done within the scope of his/her duties and which involve the exercise of discretion except in the case of use of excessive force in discipline or negligence resulting in bodily injury to students. This "negligent discipline" exception to the grant of immunity was limited to circumstances where there is actual force used upon a student or where some action by the student as a result of discipline causes injury; eg, running laps. Here the injury occurred long after the student had been removed from school custody and control. In such circumstances it is the duty of the parent /guardian to provide adequate supervision, ***Fowler v. Szostek*** 905 SW2d 336 (Tex App 1995).

A year later the Minnesota Court of Appeals affirmed the dismissal of a suit brought by the parents of a ninth grade student in a tragic case of massive miscommunication. In September the girl expressed suicidal ideations to her school counselor. He reported to the parents who sought professional analysis. A diagnosis of clinical depression followed. This information was not shared with the school. In December the student wrote an essay about a girl who shoots herself.The teacher talked to the girl and reported to the counselor. This incident was not reported to the parents. In January another counselor received a telephone call from another student saying that she had received a letter from her friend who expressed her intent to get a gun from her basement and shoot herself. This was reported to the girls' counselor who called he in. She denied having such desires. The counselor did not report either the letter or the conversation to the parents. Two days later the student got a gun from her basement and killed herself. In the following lawsuit the parents alleged negligence on the part of the district for failure to adopt a suicide prevention program and failure to notify them of the events preceding their daughter's death. The appeals court affirmed the trial court's dismissal of the suit declaring that there was no legal mandate for a suicide prevention program. Moreover,the actions of the counselor were within his professional discretion and, consequently, legally protected. One appellate judge dissented citing the *Eisel* case. He opined that the counselor possessed training and experience in such matters. Additionally, he had actual knowledge of the student's ideations. Thus, at a minimum, the counselor had a legal duty to notify parents, ***Killen v. Independent School District***

***#706 et al*** 547 NW2d 113 (Minn App 1996).

In Idaho the state supreme court built on the *Bogust* and *Eisel* precedent finding that there is no duty on the part of districts to promulgate suicide protection programs. Thus, the board is protected by "discretionary immunity" for not doing so. Furthermore, teachers are under no general duty to look for potential suicides or to take action to prevent such conduct. Where state law mandates protection of the health and welfare of pupils any legal obligation will run to those with specialized training and actual knowledge of the suicidal intentions of a specific student. Finally, a teacher who takes it upon herself to try to assist a troubled student does not assume a legally enforceable duty to protect that person, ***Brooks v. Logan*** 944 P2d 709 (Idaho 1997).

The only reported case to date in Illinois involved a senior in high school who told friends that he was going to kill himself and wrote suicide notes. The friends reported to the counselor who interviewed the boy and contacted his mother. The counselor advised mother to take her son to the hospital for drug overdose treatment. He did not mention the suicide threat. On the way to the hospital the young man leaped from the moving automobile. Later he jumped from a highway overpass and died. The mother's law suit alleged negligence on the part of the district for not promulgating a suicide prevention program in accord with a state statute authorizing school boards to conduct in service training for staff and mandating suicide intervention as a topic. The suit also accused the counselor of negligence for failing to take adequate precautions to prevent the suicide. In accord with the growing line of cases, the Illinois Appellate Court read the Illinois School Code inservice training provision as a legislative grant of discretion to boards to adopt such training if deemed appropriate. Only if a specific board chose to exercise that discretion would the suicide intervention training mandate apply. Consequently, the court continued, the Illinois Local Governmental and Governmental Employees Tort Immunity Act provides immunity from suit with regard to the exercise of that discretion unless there is proof of wilful and wanton conduct. Moreover, the tort immunity act specifically immunizes public agents and entities for failure to diagnose physical or mental conditions or for misdiagnosing such afflictions without commensurate proof of wilful and wanton conduct. Nevertheless, the justices explained that wilful and wanton conduct may occur when someone possesses knowledge that circumstances pose a high probability that someone may be seriously harmed and consciously disregards that knowledge. Thus, though the evidence was insufficient in this case, the court did state that a case of wilful and wanton conduct could arise if a counselor fails to take any action upon learning of a student's suicidal intentions. In dissent, one justice wrote that it was her reading of the law that the

failure of a counselor to notify parents of a student's suicidal ideations after obtaining actual knowledge of impending danger does, indeed, constitute wilful and wanton disregard for the student's life and health, ***Grant v. Board of Trustees of Valley View School District*** 221 Ill Dec 902, 676 NE2d 705 (Ill App 1997)

Finally, when a student has been identified pursuant to the special education laws special legal circumstances arise. To date there appear to be two court decisions involving suicides by special education students. The first, an unpublished ruling by a federal trial court in Maryland, arose after the death of a junior high boy who had been identified with a Serious Emotional Disorder (SED). During the course of a variety of placement s and evaluations the boy threatened suicide. The problems culminated with his suspension from school after a physical confrontation with a teacher. The boy's noncustodial father picked him up from school and delivered him to his mother's residence. During the evening mother fell asleep and awoke to find her son dead from hanging in his bedroom. The parents sued citing civil rights violations, IDEA violations and breaches Section 504 of the 1973 Rehabilitation Act on the part of the school district and selected personnel. In support of their case the plaintiffs introduced expert testimony of two clinical psychologists who stated their opinions that school personnel failed to adequately diagnose a psychiatric disorder and that the undiagnosed problem "materially contributed to the cause of the suicide." The trial court summarily found for the educators finding such evidence insufficient . Particularly in the face of other evidence of a family history of such conduct and that the boy was in the control of mother when the act occurred, ***Scott v Montgomery County Board of Education*** *120 F3d 262 ( 1997)* .

The second decision comes from the US Circuit Court of Appeals in an Arizona case . There a sixteen year old special education student identified as learning disabled with psychological and emotional problems including impulsivity and depression had experienced a variety of problems over a seven year period. Two months before his death he told an aide that "maybe I would be better off dead". In a separate conversation he told the aide that he was going to shoot himself. The aide informed the counselor. They both knew that the boy had access to firearms. On the day of his death the boy was reprimanded by the principal for harassing an elementary student. During this conversation , in the presence of the school counselor, he threatened the teacher who reported him. The boy also threatened to harm the teacher's son and her car. He was immediately suspended by the principal for security purposes. The principal instructed the counselor to drive the student home. She also telephoned the police and told them to detain the boy if he was spotted returning to

school. The principal did not attempt to contact parents and did not instruct the counselor to do so, in direct violation of district policy. The counselor drove the "very angry" boy home and dropped him off without attempting to determine if any parent was at home. Later in the day the parents returned to find their son dead from a self-inflicted gunshot wound. The trial court dismissed the federal civil rights case against the district but refused to do so with regard to the principal and counselor. Upon review, the federal appeals court upheld the trial court finding that a jury might reasonably conclude that the individual defendants' actions "created the danger" which caused the harm in violation of the plaintiffs' 14th Amendment substantive due process rights, ***Armijo v. Wagon Mound Public Schools et al*** 159 F3d 1253 (10th Cir 1998).

**Summary of Legal Principles**

The case law precedents in the area of student suicide are consistent with the results of the present research. Since the first reported court decision in 1961, there have been fewer than 15 published decisions. And they are inconsistent in their holdings and rationales. Nonetheless, there are a number of rules which can assist educators and policy makers:

1. The law does not require educators without specific training and experience to discover or diagnose psychiatric, psychological or emotional conditions which may lead to a student doing harm to him/herself.
2. Without specific legal mandates, school districts are under no duty to protect students from themselves or to promulgate suicide prevention programs.
3. Where there are laws or regulatory mandates educators are responsible for knowing the law and for strict adherence thereto.
4. In the absence of specific state immunity statutes, courts have readily protected boards and executive personnel from civil liability in the exercise of their policy making discretion.In addition, state immunity statutes often provide additional measures of protection from liability.
5. Federal courts have recognized a constitutionally protected "liberty interest" in the care, custody, and companionship of children. School districts and/ or school personnel may be held liable if a student suicide results from the application or misapplication, of a law, policy, or practice of the school and such result could have been reasonably predicted.
6. Teachers who take it upon themselves to try to assist troubled students do not assume a legal duty to protect the student or to prevent harm.
7. A clear trend is to find that professionals with specific training,ie; counselors, social workers

and psychologists will be held to a duty to notify parents or guardians when they possess actual knowledge of circumstances which pose serious risk to the well being of a student. This same duty may well apply to building principals under similar circumstances.

8. The duty to exercise reasonable care to prevent harm to students will outweigh confidentiality when a professional has actual knowledge of specific circumstances which pose grave danger to a specific person.
9. If a special education student experiences suicidal ideations and it is reasonable to conclude that they are a manifestation of the student's disability, all involved school personnel must adhere strictly to the Individual Education Program(IEP) and all applicable law, regulations and policies

## Summary of Findings and Recommendations

The good news is that more than 90% of school districts with 1000 or fewer students in Illinois have not had to cope with student suicide. Still, it is troubling that nearly 30% of all student suicides reported in the past 5 years cost the life of a boy or girl in a small school. Moreover, the smallest schools, those with 500 or fewer enrollment, account for 18% of the total self inflicted deaths among Illinois young people. Clearly, small town Illinois provides no safe haven. Depression, substance abuse problems, and the loss of loved ones transcend geographic and urban boundaries.

Equally as troubling in this study is the finding that small and rural schools have not yet recognized and/or addressed the growing phenomenon of suicide among the young. Those who are apt to become the most involved, teachers and principals, have the least training and the least policy guidance. Community leaders do not address the problem for a variety of reasons. There is still a very real social stigma accompanying the act of suicide. In addition, school leaders fear open discussion of the topic lest they accidentally provide the suggestion to an otherwise troubled young person. But when the lives of our precious youth are at stake wilful blindness has, too often, proven deadly.

### Recommendations

**1. Openly recognize the problem**

The initial, and most important, step in dealing with student suicide is for school policy makers and educators to openly recognize the problem. Once this is accomplished measures to overcome the social stigma and "code of silence" can be employed to address the issue constructively. Education of school leaders must precede policy and programmatic initiatives.

**2. Gather resources and information**

Resources are as close as the nearest school psychologist, counselor, community mental health agency, university, or Internet connection. The following web sites provide good references, resources and program ideas:

**American Association of Sucidology ( www. suicidology.org)**

Among the information and resources provided are guidelines for schools in the aftermath of a suicide, guidebooks for school based suicide intervention and prevention programs, student involvement programming, a support group directory and speakers roster.

**American Foundation for Suicide Prevention(www.afsp.org)**

This organization funds research, education and treatment programs aimed at the prevention of suicide. The site contains a Youth Suicide link.

**Yellow Ribbon Program of the Light For Life Foundation (www.yellowribbonsd.org)**

This site is devoted to the prevention of youth suicide. The San Diego based organization offers various resources; including crisis hotline information, films and the Yellow Ribbon Program. The program is an ingenious early warning and prevention effort employing yellow ribbons and Yellow Ribbon Cards as nonverbal "cries for help".

**3.Promulgate a district policy**

Many districts have promulgated crisis management plans. Additionally, in the wake of the Columbine High School killings/suicides, there are renewed initiatives for schools to address these potentialities. Judging from the results of the present study there appears to be a general dearth of policy guidance for faculty and building level administrators when it comes to student suicide.

As has been stated above, the weight of the law is protective of educators who take reason based proactive stances to protect students from themselves in such circumstances. In fact, at least two states, Maryland and Florida, have passed laws mandating youth suicide prevention programs in the schools. To date, Illinois has no corollaries and there do not appear to be any on the horizon. Still,some commentators advocate district level suicide prevention policies and programs involving the total school staff.(5) Caution is advised.

Such programs involve training of faculty and staff to recognize signs of depression and other indicators of suicide danger. The danger in such comprehensive suicide prevention programs, other than those mandated by statute, lies in administration. Unless regularly monitored,updated and efficiently executed such policies pose a danger of creating false expectations about the ability of the district and its staff to prevent an occurrence which they are often powerless to do. That is not to say that educational leaders should continue to ignore this growing problem among our young, quite the contrary. Illinois law, in its direction to school boards to conduct in-service training programs, specifically declares: "...(S)chool guidance counselors, teachers, and other school personnel who work with pupils in grades 7 through 12 shall be trained to identify the warning signs of suicidal behavior in adolescents and teens and shall be taught appropriate intervention and referral techniques."(6)

Where, as in Illinois, there is a mandate to train school people but none to promulgate comprehensive district- wide suicide prevention programs, the simplest and most effective policy guidance a school district can provide is a mandate of full communication with parents and guardians. Indeed, the Illinois survey revealed that in virtually all law suits filed following the death of a child the lack of notice to parents is cited as a motivating factor in the decision to file the action. Any such policy should mandate timely direct contact between counselors, social workers, psychologists, principals and parents. In the case of a student expressing suicidal ideations to a teacher or other staff members, there should be direction for the immediate report to the appropriate professional personnel and building level administrators. All reports should be documented contemporaneously by the reporter with pertinent details including the date,time and persons notified.

To be sure,the ultimate responsibility for the welfare of children still lies with parents and guardians. The courts continue to recognize that fact where there is no clear legal mandate otherwise. But as stated above, a clear trend in judicial analysis in student suicide cases is to hold

trained personnel to a duty of notice to those who are ultimately responsible. It is a duty which can be easily fulfilled and has the greatest potential for advancing the best interests of the troubled child

## Conclusion

In the aftermath of the tragic suicide of thirteen year old Erin Lyn Melvin, Galva High School Principal Steve Johnson was forced to sit before the girl's stricken parents and testify that, given what he thought he knew about their daughter, "... there was just no reason to think that this was a serious note."(7) As of this writing the school district has tried unsuccessfully to assert the Illinois Local Governmental and Governmental Employees Tort Immunity Act as a basis for a motion to dismiss the case. As in Galva, Illinois, the tragic lesson is being learned in too many of America's schools. The days of dismissing youthful talk of self destruction are over. School personnel must take every suicide threat seriously and employ all reasonable precaution to protect the child. Sadly, the deaths continue as does the grief and the lawsuits. And in far too many cases,tragedy occurs for want of simple recognition of a problem or a timely telephone call.

## Endnotes

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**1.** Melvin v. Galva Community Unit School District#224, Illinois Circuit Court, 14th Judicial Circuit, Henry County, Illinois, Case #97- L 29 .

**2.** Deposition of Steve Johnson, page 21.

**3.** Complaint,page 2; Johnson Deposition,page 23.

**4.** Wanda Jackson, *Youth Suicide: The School's Role in Prevention and Response,* Phi Delta Kappa Educational Foundation, Bloomington, IN , 1999, 1

**5.** Doris Rhea, *The Need for a School Suicide Prevention Policy,* NASSP Bulletin, April, 1995, 1-9.

**6.** 105 ILCS 5/10-22.39.

**7.** Deposition of Steve Johnson, page 22.